



Oregon

Bureau of Labor and Industries

Brad Avakian
Commissioner

March 5, 2014

Jonathan McCalip
Maintenance Manager
Jackson County
10 South Oakdale, Room 208
Medford, OR 97501

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Courthouse Security Upgrade and Commissioning
Requested by: Jackson County

Dear Mr. McCalip:

On February 25, 2014, you submitted a request on behalf of Jackson County requesting a determination of whether the electric lock upgrades and mechanical door hardware upgrades to be performed at the Jackson County Courthouse need to be considered a single project, and subject to the Prevailing Wage Rate laws. On February 28 and March 3-4, 2014, you sent this office emails responding to some questions I had regarding the project.

Sufficient information to make a determination was received on March 4, 2014, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. The Jackson County Courthouse is located in Jackson County, Oregon. The county is proposing an upgrade of the electric locks currently in place to include a wireless backbone and upgrading the mechanical door hardware for added safety.
2. On January 6, 2014, Jackson County solicited three quotes for a storefront door replacement.
3. Jackson County issued two Invitations to Bid regarding aspects of the upgrade of the electric locks. The first, issued January 24, 2014, was for the electrical portion (which involves wiring to control boxes) of the electric lock upgrade. The contract was awarded to Precision Electric. A second Invitation to Bid was issued

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800 NE Oregon St. Suite 1045
Portland, OR 97232-2180
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February 7, 2014, for the electronic parts, installation, linking the control hardware to the server and software programming. The contract for this portion was awarded to Chown Hardware. Jackson County has assumed that the contracts awarded for this work will be subject to prevailing wage rate law.

4. All remaining work not covered by the contracts will be supplied by Jackson County employees.
5. The electrical work will cost \$6,500. Electronic parts and installation, software programming and commissioning will cost \$24,900. The replacement of one storefront door will cost \$9,800. Hardware cost for upgrading the mechanical door hardware will cost \$53,998.56.
6. The total project cost will be \$95,198.56. All of the funds are funds of Jackson County.

CONCLUSIONS OF LAW:

1. The Jackson County Courthouse Security Upgrade and Commissioning Project is a major renovation of a building which is carried on or contracted for by a public agency to serve the public interest. Therefore, the definition of "public works" under ORS 279C.800(6)(a)(A) will apply to this project.
2. When determining whether multiple contracts constitute a single project, the commissioner considers the following:
 - a. The physical separation of the project structures. Here, all the upgrades are on doors contained in the Jackson County courthouse.
 - b. The timing of the work on project phases or structures. In this situation, both upgrades will be performed at the same time.
 - c. The continuity of project contractors and subcontractors working on project parts or phases. Jackson County maintenance employees will be installing all the hardware and a subcontractor will be performing the rest of the work associated with electronic systems, programming, etc. to make the security door(s) functional.
 - d. The manner in which the public agency and the contractors administer and implement the project. Facilities Manager will be acting as general contractor and overseeing all the work.
 - e. Whether a single public works project includes several types of improvements or structures. In this instance, the project seems to include mostly upgrades to doors at the courthouse.

- f. Whether the combined improvements or structures have an overall purpose or function. The overall purpose appears to be updating the doors at the courthouse for increased safety and ease of use.

Considering these factors, the Bureau determines that these upgrades should be considered one project.

3. The Jackson County Courthouse Security Upgrade and Commissioning Project has a total contract price in excess of \$50,000. Therefore, the exemption in ORS 279C.810(2)(a) for projects for which the contract price does not exceed \$50,000 does not apply.
4. All the funds used to finance this project are funds of a public agency. OAR 839-025-0004(9)(a)(A) defines "directly used funds of a public agency" as "revenue, money, or that which can be valued in money collected for a public agency or derived from a public agency's immediate custody or control." The funds here were derived from Jackson County's immediate custody or control and therefore are funds of a public agency.

DETERMINATION:

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, will apply to the Jackson County Courthouse Security Upgrade and Commissioning Project.

This determination is based on the agency's file as of the date of this determination. The commissioner may make a different determination if any of the project information is incorrect, or if the project or project documents are modified or supplemented after the date of this determination.

REQUEST FOR RECONSIDERATION:

After the commissioner issues a determination, the requestor or any public agency served with a copy of the determination may request that the commissioner reconsider the determination. A request for reconsideration must be submitted in writing to the Prevailing Wage Rate Unit, must include the reason or reasons for the request and any documents in support of the request, and must be received within 15 calendar days of the date the determination was mailed. A request for reconsideration does not toll the time period for requesting a contested case hearing on the determination.

RIGHT TO A HEARING:

The requestor and any person adversely affected or aggrieved by this determination are entitled to a hearing as provided by the Administrative Procedures Act (ORS 183.413 to 183.470) and ORS 279C.817. If you want a hearing, the Bureau of Labor and Industries,

Jackson County
Courthouse Security Upgrade and Commissioning
Coverage Determination

Wage and Hour Division, must receive your written request for hearing within 21 days from the date this notice was mailed. Hearing requests should be addressed and delivered to:

Administrator
Wage and Hour Division
Bureau of Labor and Industries
800 NE Oregon St., Suite 1045
Portland, OR 97232

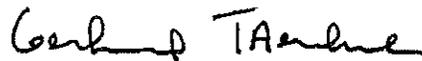
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel or an authorized representative. If you request a hearing, you will receive information on Contested Case Rights and Procedures before the hearing. After the hearing, an order confirming, modifying or reversing this determination will be issued. This determination shall remain in effect until the final order is issued.

If you request a hearing, but fail to appear at any scheduled hearing, you will have waived your right to hearing, and the commissioner may issue a final order by default. If the commissioner issues a final order by default, the agency file on this matter shall serve as the record for purposes of proving a prima facie case. You are not entitled to judicial review of this determination order unless you have made a timely request for a hearing.

Date: March 5, 2014

BRAD AVAKIAN, Commissioner
Bureau of Labor and Industries



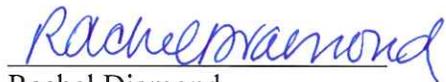
GERHARD TAEUBEL,
Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On March 5, 2014, I mailed the Prevailing Wage Rate Determination for the Jackson County Courthouse Security Upgrade and Commissioning Project to the requestor and affected agencies, as follows:

Jonathan McCalip
Maintenance Manager
Jackson County
10 South Oakdale, Room 208
Medford, OR 97501

Certified Mail – Return Receipt Requested
Article #: 7012 3050 0001 7255 3083



Rachel Diamond
Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries